

# Final Report & Recommendations

IOWA SUPREME COURT'S LIMITED JURISDICTION TASK FORCE

DECEMBER 15, 2008

[Page intentionally left blank]

Chief Justice Marsha Ternus,  
Justices of the Supreme Court, and  
Members of the Judicial Council:

December 15, 2008

We hereby submit the report of the Limited Jurisdiction Task Force appointed by the Supreme Court pursuant to its order of January 14, 2008.

We met as a group on six separate occasions over the past year, and heard presentations from a wide variety of individuals and groups. We have had numerous exchanges by e-mail and phone to identify and discuss possible findings and recommendations for the task force. Individual members and groups of members of the task force have not only made presentations, but have done their own research and investigation and have reported the results to the entire task force. For example, the four magistrate members prepared and distributed a magistrate survey to the 152 magistrates. Not only did 117 of the magistrates send written responses to the survey, a number of them wrote out detailed comments.

Over the past year, we have developed an appreciation of the complexity and magnitude of the task assigned to us. Accordingly, we approach the issuance of this report with caution and modesty having developed an understanding that the system we have reviewed, examined, and are reporting on has evolved over generations and in many respects functions very well. We have all gained a keen appreciation of the jobs being performed by magistrates and other judicial officers throughout the state that support the system. However, we have concluded there are significant problems with the existing system which, if unaddressed, could jeopardize the quality of magistrate services.

Most of the recommendations are supported by all the members or with only one or two dissenters. Moreover, nearly all of the task force members have concluded that without adopting one or more of the recommendations which provide for significant structural changes, a number of problems will remain. However, it is these structural change recommendations (i.e. Recommendations 2, 3 and 4), which have generated the greatest differences of opinion among task force members. Recommendation 4, which would eliminate the requirement of one resident magistrate per county, generated the most debate with one-third of the task force members opposing the recommendation. Recommendations 2 and 3, relating to opening the application process to residents of contiguous counties and full-time magistrates respectively, had less resistance, with only three or four dissenters.

We want to underscore that except for the order appointing us as the members of the task force, and except for generously providing services and other support whenever asked, members of the Supreme Court and the Judicial Council have not been involved in this process. They have not in any way tried to influence or direct findings or recommendations of this task force. This report, and its conclusions and narrative are solely the product of our work and deliberations. It has been our privilege and a pleasure to be able to independently investigate, deliberate, and finalize our conclusions.

We want to take special note of the significant contribution of John Goerdts and other Supreme Court staff who provided valuable support services to us throughout this process. Without their assistance providing historical background, drafting and editing assistance, meeting setup and follow-up, this task force report would not have been possible.

Respectfully submitted,

Attorney Donald B. Redfern, Chair, Cedar Falls  
Representative Richard T. Anderson, Clarinda  
District Judge Nancy A. Baumgartner, Cedar Rapids  
District Associate Judge Virginia Cobb, Adel  
County Attorney Timothy W. Dille, Fairfield  
Magistrate Richard N. Dunn, Eldora  
Magistrate Karen D. Egerton, Iowa City  
Clerk of Court Linny Emrich, Manchester  
Attorney David M. Erickson, Des Moines  
Public Defender Susan Flander, Mason City  
District Associate Judge Lucy J. Gamon, Sigourney  
Attorney Myron Gookin, Fairfield  
Chief of Police Jeff Harnish, Toledo  
Attorney Vicky Long Hill, Des Moines  
Deputy Sheriff Steve Hoffman, Marshalltown  
District Judge Mary E. Howes, Davenport  
Clerk of Court Craig Jorgensen, Sioux City  
County Attorney Timothy R. Kenyon, Creston  
Senator Keith A. Kreiman, Bloomfield  
Supervisor Linda Langston, Cedar Rapids  
Attorney Corey Luedeman, Cedar Rapids  
Senator Larry McKibben, Marshalltown  
District Associate Judge John Nelson, Sioux City  
Representative Rick Olson, Des Moines  
Magistrate Suellen Overton, Council Bluffs  
Attorney Lisa Raabe, Des Moines  
Asst Attorney General Elizabeth Reynoldson, Osceola  
Supervisor James Strohman, Ames  
Businessman James R. Tyler, Atlantic  
Attorney Jerry Van Scoy, Clinton  
Magistrate Dianne Wallwey, Spencer

# Iowa Supreme Court's Limited Jurisdiction Task Force: Final Report and Recommendations

(December 15, 2008)

## Table of Contents

<b><u>Section</u></b>	<b><u>Page</u></b>
Summary of the Findings and Recommendations .....	1
I. Background and Rationale for Creation of the Task Force ...	4
II. Overview of the Judicial Magistrate System in Iowa .....	6
III. The Task Force and Its Process .....	9
IV. Task Force Findings .....	11
V. Task Force Recommendations and Discussion .....	15

## Appendices

A. Map of Iowa's 8 Judicial Districts and 14 Judicial Election Districts .....	26
B. Summary of Recommendations in the <i>Evaluation of Iowa's Limited Jurisdiction Judicial System</i> (1981) .....	27
C. Iowa Supreme Court Order Creating the Limited Jurisdiction Task Force .....	28
D. Number of Lawyer and Lay Magistrates in Each Judicial District .....	32
E. Findings from a Survey of Judicial Magistrates in Iowa (June 2008) .....	33
F. Magistrates' Salary, Benefits, and Access to Tech Support and Training .....	35
G. Total Magistrate Positions and Number Exchanged for District Associate Judges By Judicial Election District .....	36
H. Agendas for the Six Meetings of the Limited Jurisdiction Task Force .....	37

[Page intentionally left blank]

## **Summary of the Findings and Recommendations**

The following is a concise statement of the Task Force's findings and recommendations, which are discussed in greater detail in sections IV and V, respectively.

### ***Findings***

**Magistrates throughout the state of Iowa are doing a very good job. There are problems and challenges which need to be addressed by legislation and/or judicial policy.**

1. There are very significant disparities in workload among magistrates although each magistrate receives the same rate of compensation and benefits.
2. There is a very limited pool of qualified applicants for some magistrate positions.
3. There has been an increase in complexity of civil and criminal laws within the jurisdiction of magistrates. Consequently, there is a need to ensure that successful magistrate applicants have legal training, experience and impartiality.
4. There are significant quality of life problems for many magistrates, which diminish job satisfaction.
5. There are urgent and serious problems which need to be addressed by the stakeholders involved in our mental health system relating to emergency mental health commitments.

### ***Recommendations***

#### **Recommendation 1**

Chief judges should assign magistrates with low workloads to travel to heavier workload counties so that all magistrates have similar workloads.

#### **Recommendation 2**

Amend the Iowa Code to provide that a magistrate position may be filled by an applicant who resides in a county contiguous to the county with the opening, and that the applicant may continue to reside in the contiguous county if appointed as a magistrate.

#### **Recommendation 3**

Amend the Iowa Code to allow the judicial branch to convert two part-time magistrate positions to one full-time position.

#### **Recommendation 4**

Amend the Iowa Code to remove the requirement that each county have a resident magistrate or judge, but require that magistrate court be held regularly in each county.

#### **Recommendation 5**

Amend the Iowa Code to require a magistrate to be an attorney licensed by the Iowa Supreme Court. There should be an exception for current lay magistrates, who should be allowed to continue to reapply so long as they are serving as magistrates.

#### **Recommendation 6**

Amend the Iowa Code to provide that the County Magistrate Appointing Commission consider the potential for conflicts of interest as a factor when selecting a magistrate from among two or more comparably qualified applicants.

#### **Recommendation 7**

The judicial branch should make a concerted effort to recruit African Americans, Hispanics, Asians, other ethnic minorities to apply for magistrate and other judicial officer positions and positions on judicial nominating commissions. Magistrates should also receive the same opportunity for diversity training as full-time judges. To enhance recruitment of racial and ethnic minorities, the Task Force specifically recommends:

(1) When magistrate or other judicial positions become available, the judicial branch, county bar associations, and the appropriate nominating or appointing commission should disseminate information about the vacancies through print, television and radio media and community organizations that are directed toward minority communities in Iowa.

(2) The judicial branch should work with law schools in Iowa to develop internship programs to match law students with magistrate judges.

(3) The judicial branch should encourage the legislature to amend the Iowa Code pertaining to judicial nominating or appointing commissions to explicitly require them to seek qualified minority candidates for judicial positions, similar to the Minnesota Code. (See the Minnesota Code, Section 480B.01 (i)(e), .01(7) and .01(8).

#### **Recommendation 8**

The Supreme Court should issue an administrative directive that no magistrate should be on-call more than 50% of the time during a calendar year, and should have an equitable share of time off on weekends and holidays. Full-time judges in each district should assist in sharing the on-call duties. The annual on-call schedule should be established by the chief judges, and administered by the district court staff.

#### **Recommendation 9**

Make optimal use of existing communication technologies, and provide state assistance in securing appropriate equipment.

#### **Recommendation 10**

Amend the Iowa Code to authorize the Supreme Court to issue rules that would allow physicians to implement a temporary hold on a patient needing a mental health or substance abuse committal between the hours of 10:00 p.m. and 7:00 a.m.

#### **Recommendation 11**

Establish a joint task force including representatives from, but not limited to, the Judicial Branch, the Department of Human Services, the Attorney General's office, the Department of Corrections, and Central Point Coordinators to study and recommend improvements to mental health and substance abuse committal policies.

#### **Recommendation 12**

Establish small claims mediation programs throughout the state and training standards for small claims mediators. Whenever possible, trials should take place the same day if mediation is unsuccessful.

#### **Recommendation 13**

The Supreme Court should establish an advisory committee on limited jurisdiction courts, or at least periodically have an ad hoc task force review and consider limited jurisdiction changes.

## I. Background and Rationale for Creation of the Task Force

In 1972, the Iowa Legislature passed the Unified Trial Court Act (effective July 1, 1973), which reorganized Iowa's trial courts into eight judicial districts.<sup>1</sup> Before 1972, Iowa had justice of peace courts, municipal courts, police courts, and superior courts. Through the Unified Trial Court Act, all types of trial and limited jurisdiction courts were consolidated into the Iowa district court. The judges of general jurisdiction (superior courts) became district court judges. Limited jurisdiction judges (from municipal and police courts) became district associate judges or associate juvenile judges. Justices of the peace became magistrates, who are part-time judicial officers. Magistrates have authority to handle small claims (up to \$1,000 in 1973; now up to \$5,000), simple misdemeanors (traffic and ordinance violations), initial appearance in all criminal cases, and seized property cases. In recent years, lawyer-magistrates have also been given jurisdiction to handle adult mental health and substance abuse commitment cases. Every county has at least one resident magistrate who, under the Code of Iowa, may be a lawyer or a lay person, though preference is given to lawyers who apply for magistrate positions.

There has not been a systematic assessment of the needs or problems facing the magistrate system in Iowa in almost 30 years.<sup>2</sup> Between 2001 and 2004, when all branches of Iowa's government endured budget cuts, the court system actively sought ways to become more efficient in many areas of operation. During that same period, the legislature appointed a Study Committee on Judicial Districts and Judicial Resources, which met about six times over three years, and focused primarily on the equitable allocation of full-time judges and ways to improve the efficiency of court administration. However, it touched only briefly on issues involving the judicial magistrate system. The Study Committee made several recommendations to the legislature, which enacted some recommendations related to the allocation of – and formulas for – full-time judges, but none that were related to the judicial magistrate system.

Given that the focus of the legislature's Study Committee was primarily on issues other than the magistrate system, the Iowa Supreme Court decided to form this Task Force to focus on issues and concerns related specifically to judicial magistrates.<sup>3</sup> The Supreme Court wanted representatives from a wide range of groups and organizations that have some stake in Iowa's magistrate system, determine whether there might be ways to more efficiently and effectively provide judicial magistrate services. At the first meeting of the Task Force, Chief Justice Marsh

---

<sup>1</sup> See Appendix A: a map of Iowa and the eight judicial districts.

<sup>2</sup> See Appendix B: a summary of the recommendations from a consulting group that conducted an extensive study of Iowa's magistrate system in 1981: *Evaluation of Iowa's Limited Jurisdiction Judicial System*, by Resource Planning Group, Washington, D.C. (1981).

<sup>3</sup> See Appendix C: a copy of the Order of the Iowa Supreme Court appointing the Limited Jurisdiction Task Force.

Ternus emphasized that Task Force members should not view themselves as advocates for their groups' particular interests. Instead, they should examine the issues as citizens of Iowa and make recommendations that are in the best interest of the entire state. The chief justice asked the Task Force to help the judicial branch achieve the objectives of prompt, fair, and accessible magistrate services for all Iowans.

## **II. Overview of the Current Judicial Magistrate System in Iowa**

### **A. Jurisdiction, Workload, and Salary**

Iowa's judicial magistrates are part-time judicial officers. About 89% are lawyers and 11% are lay persons.<sup>4</sup> All magistrates have jurisdiction over small claims (civil cases up to \$5,000), simple misdemeanors, initial appearances in all criminal cases, and search warrant applications.<sup>5</sup> Magistrates who are lawyers also have jurisdiction to handle mental health commitment hearings.

In a substantial number of Iowa's less populated counties, the magistrate is the only judicial officer who resides in the county and is responsible for handling all (or almost all) of the after-hours on-call duties throughout the year. Magistrates typically handle cases only in their county of residence, though the chief judge of the judicial district may assign them to work in other counties as needed. Many magistrates also assist magistrates in neighboring counties by handling their duties when they are sick, on vacation, or on military leave.

Based on a judicial workload analysis<sup>6</sup> and a survey of magistrates during 2008 by the Task Force, it is clear that the magistrates' workloads vary significantly. Some magistrates perform judicial duties 10 hours or less per week, while some work 30 or more hours per week on magistrate matters. The average time spent on magistrate duties is from 14 to 16 hours per week (excluding on-call time that does not involve requests for magistrate services).<sup>7</sup> However, on-call duties vary significantly among the counties. Magistrates in Polk County work two full days (16 hours) per week in court, but they are not expected to share on-call duties. On the other hand, magistrates in many rural counties typically work less than two full days per week on magistrate duties, but they may be responsible for on-call duties every day of the year (except when sick or on vacation).

All magistrates receive the same annual salary of \$37,740, which is 31% of a full-time district associate judge's salary (\$122,400). They also receive health and dental insurance at part-time employee rates.<sup>8</sup>

---

<sup>4</sup> See Appendix D.

<sup>5</sup> See Code of Iowa §602.6405.

<sup>6</sup> During 2008, the National Center for State Courts (NCSC), under contract with state court administration, conducted a study of judicial workloads in Iowa's district court for the purpose of developing a new weighted caseload formula. Preliminary data from that study suggested that magistrates work an average of 14 hours per week on judicial duties. The final report on that project is due in November 2008.

<sup>7</sup> See Appendix E, Table 1.

<sup>8</sup> See Appendix F.

## **B. Number, Allocation, and Appointment**

The Iowa General Assembly has authorized 206 judicial magistrate positions.<sup>9</sup> The state court administrator allocates the magistrate positions to each county every four years. The current allocation was made in March 2005; the next one will be in March 2009. Under the Iowa Code, each county must receive at least one magistrate position. The state court administrator may allocate additional magistrates to a county as justified by the caseload, but the Iowa Code does not provide a specific formula.<sup>10</sup>

After the state court administrator announces the allocation of magistrates to each county, the County Magistrate Appointing Commission in each county meets to interview and select the magistrate (or magistrates) to fill the allocated position(s). The Commission includes two lawyers elected by lawyers in the county, three lay persons appointed by the board of supervisors, and a district judge.<sup>11</sup> The Commission must give preference to applicants who are lawyers, but may appoint a person who is not a lawyer. Appointment of lay magistrates is most common in less-populated counties where there are few lawyers.<sup>12</sup>

The Iowa Code also allows the chief judge in each judicial district to exchange three part-time magistrate positions for one full-time district associate judge (DAJ) position, though each county must retain at least one resident magistrate or DAJ after the exchange.<sup>13</sup> Technically, there are 206 magistrate positions in the state, but a total of 54 magistrate positions have been exchanged for 18 full-time DAJs, leaving 152 actual magistrates.<sup>14</sup>

## **C. Equipment and Training Provided to Magistrates**

Each magistrate has access to a computer, printer, copier, and fax machine in the county courthouse, though in some counties a magistrate might have to share the computer with another magistrate or judge. Depending on the district, some magistrates have laptops that they can take with them. Many magistrates, however, use the computer and equipment in their law offices because that is where they write and produce their rulings. A few districts provide magistrates with pagers, if requested, to assist with their on-call duties.

---

<sup>9</sup> See Code of Iowa §602.6401(1).

<sup>10</sup> See Code of Iowa §602.6401(2).

<sup>11</sup> See Code of Iowa §602.6501. To allocate additional magistrates among Iowa's counties in 2005, the state court administrator applied a weighted caseload formula developed by the National Center for State Courts based on a study of judicial workload conducted in Iowa in 2000.

<sup>12</sup> See Appendix D for the number of lawyer and lay magistrates in each district.

<sup>13</sup> See Code of Iowa §602.6302(1). The exchange must be approved by a majority of district judges in the judicial election district where the county or counties involved are located. It must also be approved by the Supreme Court

<sup>14</sup> See Appendix G.

All magistrates are required to attend a one-day education seminar each year, conducted by the judicial education division of the state court administrator's office. The seminars include updates on changes in the Iowa Code enacted during the most recent session of the Iowa legislature, and decisions by the Iowa Supreme Court and Court of Appeals in areas of the law that are within the magistrates' jurisdiction. The seminar may also cover other issues of current interest (e.g., changes in court-related technology or court forms, managing cases that involve interpreters or cases with self-represented parties, etc.)

### **III. The Task Force and Its Process**

#### **A. Members**

The Iowa Supreme Court appointed 31 persons to the Task Force to ensure that each judicial district and a variety of stakeholder groups had representation.<sup>15</sup> The Task Force included representatives from:

- Magistrates
- Boards of Supervisors
- Businesses
- City Attorneys
- Clerks of District Court
- County Attorneys
- County Sheriffs
- District Judges
- District Associate Judges
- Iowa Bar Association
- Landlords Association
- Legal Aid
- Legislators
- Police Chiefs
- Public Defenders

#### **B. Task Force Process**

The Task Force met six times between February and October 2008, including five meetings in Des Moines and one via conference call. The first meeting included an overview of the history of the current magistrate system, Iowa Code sections pertaining to magistrates, and an open discussion of observations and concerns expressed by Task Force members regarding the magistrate system. Each of the following four meetings included presentations by representatives from various stakeholder groups on the Task Force and additional organizations, followed by a discussion of issues raised during the presentations.<sup>16</sup>

During the third meeting (in May), the magistrates on the Task Force recommended conducting a survey of all magistrates to obtain their observations and opinions about their workload and a range of issues confronting magistrates. The four magistrates subsequently met with state court administration staff to draft a three-page survey that included numerous closed-end questions (e.g., asking for responses that included estimates of how much time they spend on various activities, and to rate opinions on various issues [1 = strongly disagree / 5 = strongly agree]), and three open-ended questions that asked for written comments. The survey was sent to all magistrates via email in June. They were guaranteed anonymity, and 117 of the 152 magistrates responded to the survey. Many respondents included extensive written comments. The Task Force chair and the four magistrates on the committee read the written comments and reported on the survey findings during the fifth meeting.

---

<sup>15</sup> See Appendix C.

<sup>16</sup> See Appendix H: the Agendas for the six Task Force meetings.

After the fourth meeting (in July), the Task Force chair organized seven subcommittees based on general topics or concerns. He asked the subcommittees to meet via conference call prior to the fifth meeting for the purpose of drafting suggested recommendations for consideration by the whole Task Force. At the fifth meeting (in September), the Task Force discussed the findings from the magistrate survey (see Appendix E) and the suggested recommendations from the seven subcommittees.<sup>17</sup>

Following the fifth meeting, the Task Force chair drafted a set of possible recommendations that appeared to have substantial or unanimous support among Task Force members – based on the discussions at the previous meeting. The draft recommendations were distributed to the members and – based on feedback from many of the members – the Task Force chair further revised the recommendations and redistributed them to the members prior to the sixth meeting.

Before the sixth meeting, the Task Force chair and two members of the Task Force attended an Iowa Bench/Bar Meeting on Court Administration, which involved judges, court administration staff, and attorneys from throughout Iowa. The Task Force members presented and discussed some of the key recommendations being considered by the Task Force and obtained valuable feedback from participants at the meeting.

At the sixth meeting (in October), some of the Task Force members met in-person in Des Moines, and the others participated via conference call to further discuss and refine the recommendations. Based on discussions during this meeting and additional discussions with individual Task Force members via telephone, the Task Force chair produced another draft of the Task Force’s recommendations and sought final feedback from the members. The recommendations in this report are the product of this lengthy interactive process and are supported by a substantial majority of the Task Force members.

---

<sup>17</sup> See Appendix H; the agenda for the fifth meeting (September 3, 2008) includes a list of the seven subcommittees.

## IV. Task Force Findings

**Magistrates throughout the state of Iowa are doing a very good job, but there are problems and challenges that need to be addressed by legislation and/or judicial policy.**

Members of the Task Force were impressed with the commitment, work ethic, and job performance of magistrates throughout the state of Iowa. However, the Task Force concluded that changes should be implemented legislatively and by the Supreme Court to address problems existing today, which the Task Force concludes will affect the quality of judicial services.

**1. There are very significant disparities in workload among magistrates, although each magistrate receives the same rate of compensation and benefits.**

The Task Force found that the responsibilities and number of hours magistrates spend on judicial duties vary significantly throughout the state. The survey of magistrates conducted by the Task Force and a separate study of judicial work-time during 2008<sup>18</sup> showed significant disparities and hours worked per week by magistrates. The Task Force's survey, completed by 117 of 152 magistrates, showed that they work an average of about 16 hours per week (about 40% of a full-time judicial officer) on magistrate duties, but the range is from four hours per week at the lowest<sup>19</sup> to 38 hours at the highest. It appears that the disparities are the greatest in the more rural counties. By law, there is at least one magistrate in each county. In rural, low population counties with small workloads, there may be just a few hours per week of work for the resident magistrate, although being the only magistrate in the county, he or she may be on call most of the time. On the other hand, a magistrate in a busy rural county with no or few other judicial officers may have over 16 hours of work per week.

In addition, there are major differences among magistrates in the amount of on-call time. As indicated earlier, magistrates in Polk County work in court two full days a week (40% of full-time), but they have no on-call duties. (Full-time judges handle the on-call duties on a rotating

---

<sup>18</sup> The National Center for State Courts (NCSC), under a contract with the Iowa State Court Administrator, conducted a study of judicial work-time in Iowa's district courts between January and July 2008. The NCSC found that magistrates reported an average of 14 hours per week on judicial duties. See, Tallarico, Suzanne, et al. (2008), *Iowa District Court Judicial Workload Assessment Study: Final Report* (NCSC: Denver, CO).

<sup>19</sup> Based on an analysis of magistrate workloads conducted in 2005, the last time the State Court Administrator allocated magistrate positions to each county, some of the least populous counties in Iowa have very small caseloads within a magistrate's jurisdiction. In some of these counties, the estimated workload would require only 10% of a full-time equivalent judicial officer – which would be about four hours of judicial work per week. Therefore, the survey finding that one or more magistrates work only four hours per week on magistrate duties is consistent with the workload analysis conducted in 2005.

basis in Polk County.) In all other counties, magistrates have some on-call time. In counties with more than one magistrate, the magistrates share the on-call time so they are on-call 50% or less of the time. In counties with only one magistrate, the magistrate is likely to handle all the on-call duties in the county 24 hours a day, for 365 days a year. In addition, when many of these magistrates go on vacation or sick leave, they are responsible for finding a magistrate from an adjoining county to cover their judicial duties. Naturally, the magistrate is typically expected to reciprocate by covering the other magistrate's judicial duties when that person is on sick leave or vacation.

All magistrates receive the same annual salary (\$37,740 per year, which is 31% of a full-time district associate judge's salary), plus medical and dental insurance at part-time employee rates. The Task Force concluded that so long as there are significant disparities in work load among magistrates, it will continue to be very difficult to get legislators to give magistrates increases in compensation and benefits at the same rate as other judicial officers.

## **2. There is a very limited pool of qualified applicants for some magistrate positions.**

Finding qualified candidates to apply for some magistrate positions is becoming an increasing challenge, and it is expected that this will become worse. As a number of rural counties continue to lose population, there are fewer lawyers residing in those counties. There now may be as few as two or three lawyers in some counties, and one of them is likely to be the County Attorney – leaving only one or two attorneys available for appointment as a magistrate.

Compounding the problem, attorneys with a diverse and active law practices in a rural area are likely to have many conflicts of interest when serving as magistrates, requiring them to recuse themselves from cases involving current or former clients. This potential for conflicts is a deterrent that keeps some attorneys from applying for magistrate positions. The situation is also a burden on the courts, which must often bring a magistrate from an adjoining county to handle the conflict cases. A chief judge in one judicial district stated his most frequent contact with magistrates involves having to arrange for a substitute magistrate in conflict situations. There is also increasing concern, especially among County Attorneys, that the appearance of – and actual – conflicts of interest are a growing problem in many counties.

It is evident that potential qualified applicants for magistrate positions in some counties are deterred from applying because of the heavy work load, unlimited on-call time, and/or the salary and benefit package, which is not adequate to attract some attorneys. The Task Force believes that it is not sufficient that an applicant pool have only one qualified applicant. It is

always preferable that a successful candidate be chosen from the best qualified in a pool of several qualified applicants.

**3. There has been an increase in complexity of civil and criminal laws within the jurisdiction of magistrates. Consequently, there is a need to ensure that successful magistrate applicants have legal training, experience and impartiality.**

In 1981, the Resource Planning Corporation, a group of consultants from Washington, D.C., conducted an extensive evaluation of Iowa's judicial magistrate system. The first recommendation in the final report of that project was: "The state of Iowa should make every attempt to ensure that every magistrate in the system has a law degree."<sup>20</sup> Much has changed in the past 27 years. The Task Force found that changes in the nature of the magistrate's jurisdiction and caseload have substantially increased the demand for magistrates who are law trained. For example, the legislature has mandated that only magistrates who are lawyers can handle mental health and substance abuse commitment hearings.<sup>21</sup> These hearings are becoming an increasingly important component of magistrates' workloads. In addition, credit card debt collection cases, which can be very complicated, have become an increasingly large component of the magistrate caseload. The Task Force also found that, although small claims cases are limited to claims of \$5000 or less, they often involve plaintiffs with damages that may have been \$8000 or even \$10,000 – but plaintiffs bring the cases to small claims court to avoid incurring substantial attorney fees and to resolve the claims quickly. For all these reasons, it is imperative that the judicial officers who resolve these disputes thoroughly understand the law.

**4. There are significant quality of life problems for many magistrates, which diminish job satisfaction.**

As indicated earlier, many magistrates are on-call 24 hours per day, almost every day of the year, except when on vacation or sick leave. This means the magistrate cannot leave or go very far out of the county while on-call. In addition, while on-call, magistrates are sometimes contacted in the middle of the night to deal with mental health or substance abuse commitments or search warrants. And unlike full-time judges, magistrates do not have a court reporter, and they have very limited staff support at the courthouse. They typically have to do their own word processing or have the clerical staff in their law office perform these duties. The cumulative effect of these burdens and restrictions on their social lives diminishes job

---

<sup>20</sup> See, Resource Planning Corp. (1981), Evaluation of the Iowa Limited Jurisdiction Judicial System. (RPC, Washington, D.C.); p. 10.1.

<sup>21</sup> See, Iowa Code 602.6405(1); however, lay magistrates may enter an order of mental health commitment in emergency situations under Code section 229.22.

satisfaction, and they could be a deterrent to attracting additional qualified persons to apply for magistrate positions.

**5. There are urgent and serious problems which need to be addressed by the stakeholders involved in our mental health system relating to emergency mental health commitments.**

One of the issues of greatest concern to the Task Force involves the handling of mental health and substance abuse commitments. It is clear to Task Force members that problems in this area go far beyond the capacity of the judicial branch or any other department or agency to address and solve alone. Although funding is clearly one of the major issues in improving the system, it seems evident that there are ways to improve the system without a significant increase in funding. The Task Force concludes that this will only occur if addressed by all of the major stakeholders working together.

## **V. Task Force Recommendations and Discussion**

### ***Enhance Flexibility in the Assignment and Selection of Judicial Magistrates***

#### **Recommendation 1**

**Chief judges should assign magistrates with low workloads to travel to heavier workload counties so that all magistrates have similar workloads.**

Chief judges in the judicial districts should assign magistrates in lower workload counties to work in other nearby counties with heavier caseloads, to more equitably distribute the magistrate work in the district. This is within the chief judges' authority under Iowa Court Rule 22.5. While assignment of magistrates to serve in counties other than their county of residence does occur when needed to cover for magistrate vacations, sick leave, and conflicts, it is not routinely done for the purpose of more equitably sharing the workload. The Task Force understands that it is not always practical to do this. Some counties with low workloads may be two or three counties away from a county with a significantly heavier workload, and it is not practical or economical to have a part-time magistrate spend hours of travel time going to a heavier workload county. But when it can be done efficiently, it will both enhance the use of judicial resources and access to justice for Iowans.

#### **Recommendation 2**

**Amend the Iowa Code to provide that a magistrate position may be filled by an applicant who resides in a county contiguous to the county with the opening, and that the applicant may continue to reside in the contiguous county if appointed as a magistrate.**

This change should increase the number of applicants for a magistrate opening, but would maintain the requirement that the successful applicant would be assigned to the county with the opening. The change in the Iowa Code would be needed to allow the successful applicant to continue to live in the contiguous county.

If this approach is not pursued or passed by the legislature, there is an alternative that would still be an improvement over the existing system. The Iowa Code could be amended to provide that, if a county magistrate appointing commission determines that there is not an adequate pool of qualified candidates, it could certify this finding to the chief judge of the judicial district, who would have the authority to open the application process to residents of

contiguous counties. If an applicant from a contiguous county is appointed to serve as a magistrate, that person could continue to reside in the contiguous county.

### **Recommendation 3**

#### **Amend the Iowa Code to allow the judicial branch to convert two part-time magistrate positions to one full-time position.**

Presently under the Iowa Code, judicial districts have the authority to convert three magistrate positions for one district associate judge (DAJ).<sup>22</sup> However, each district associate judge receives a court reporter, and a DAJ's compensation package exceeds the combined packages of the three part-time magistrates, so the exchange is not revenue neutral. In addition, a total of 54 magistrate positions have already been exchanged for 18 DAJ positions (see Appendix G), so it is becoming more difficult for districts to find three magistrate positions to exchange, particularly given the statutory requirement that every county have at least one resident magistrate or DAJ.<sup>23</sup>

The advantage of a two for one conversion of part-time magistrates to a full-time magistrate is that it could be very close to revenue neutral as well as requiring only two part-time positions to create the full-time position. The full-time magistrate would not require a court reporter, and a salary of approximately \$80,000 a year plus full benefits would not be a significant additional expense.<sup>24</sup>

There are several advantages to full-time magistrates. Conflict of interest problems would be eliminated because the magistrate could not be in private practice. Additional lawyer candidates may be attracted to the full-time position, although they may not have been willing to take it on a part-time basis. It could give the chief judges more flexibility because it would be easier to assign full-time magistrates to travel to other counties as needed. The quality of judicial services might also be improved because, unlike part-time magistrates who also have a law practice, full-time magistrates would focus all their time and attention on their judicial

---

<sup>22</sup> See Iowa Code section 602.6302.

<sup>23</sup> See Iowa Code section 602.6401(3).

<sup>24</sup> The Task Force expects that appointment and retention of a full-time magistrate would be handled in the same manner as a full-time district associate judge. When a new full-time magistrate position is created, the Magistrate Appointing Commission(s) from the county or counties where the two half-time positions were located would make the initial appointment. The magistrate would serve six year terms and stand for retention election, just like a district associate judge. When a vacancy occurs, the Magistrate Appointing Commission(s) would make the new appointment.

duties. Moreover, an investment in support services and equipment is easier to justify when it is being utilized by a full-time judicial officer.

However, the Task Force opposes elimination of all part-time magistrate positions. There may be individuals who are or would be excellent magistrates, but are unwilling to give up their private law practice for a full-time magistrate position. In some counties and areas of the state, it might be more cost-effective to provide access to magistrate services with part-time magistrates. In addition, judicial districts would have the flexibility to use part-time magistrate positions to assist with on-call or emergency matters, or to specialize in mental health and substance abuse commitment proceedings, while using full-time magistrate positions to handle the day-time duties in a single urban county or multiple rural counties.

The Task Force wants to emphasize that it believes the part-time magistrate system has served Iowa well, and the flexibility it provides should be retained by continuing to maintain a number of part-time magistrate positions. However, the Task Force concludes that giving judicial districts the option to employ some full-time magistrates may be one of the best ways to provide more flexibility for the court system.

#### **Recommendation 4**

**Amend the Iowa Code to remove the requirement that each county have a resident magistrate or judge, but require that magistrate court be held regularly in each county.**

The Iowa Code requires that each county have at least one resident magistrate. This has contributed to the wide disparities of workload among magistrates, although magistrates are paid the same compensation and benefits. Surveys have shown the busiest magistrates work as many as four days a week, while a few magistrates work as little as one-half day a week. This considerable workload disparity may be one of the reasons the legislature has not been willing to grant increases in pay and benefits for magistrates when increases are given to district and district associate judges.

A second problem with the present system is that a number of the least populous counties have as few as two or three lawyers, one of whom is likely to be the county attorney. This makes it challenging to get an adequate pool of qualified candidates.

Another major issue is conflicts of interest involving part-time magistrates who practice law. A similar problem exists if the magistrate has a law firm partner or a spouse who practices law; this is especially an issue in the smaller counties. One chief judge said he sees this situation on a weekly basis and it is the number one matter he addresses regarding magistrates.

The Task Force heard significant testimony on the pros and cons of requiring a resident magistrate in each county. About one-third of the Task Force members oppose this recommendation, believing that it is important that each county have a magistrate and that the magistrate reside in the county. Access to the judicial process and better knowledge of the community and the individuals are among the reasons given for maintaining the requirement. Increasing the pool of qualified applicants, equity in the workload, and more efficient use of judicial resources (especially in challenging budgetary times) are reasons given for more flexibility in creating full-time positions. Whatever their views on the resident magistrate issue, all members of the Task Force believe it is important to guarantee each county regularly scheduled magistrate service, and that the court system should optimize the use of available technologies (see Recommendation 9) to ensure reasonable access to justice for all Iowans.

### ***Update Magistrate Qualifications***

#### **Recommendation 5**

**Amend the Iowa Code to require a magistrate to be an attorney licensed by the Iowa Supreme Court. There should be an exception for current lay magistrates who should be allowed to continue to reapply so long as they are serving as magistrates.**

The magistrate system in Iowa was preceded by justices of the peace, who were often lay persons. When magistrates replaced justices of the peace under the court reorganization in 1973, the Iowa Code continued to allow lay persons to be magistrates, although attorneys have been given preference in the selection process. The number of lay magistrates has decreased in the past few decades, but many of those who are currently serving have served for a number of years and have acquired considerable knowledge and experience. The Task Force found that most existing lay magistrates get good reviews by those who appear before them and who work with them.

However, the Task Force also found that a person newly appointed as a magistrate today faces a more complex and challenging legal environment than applicants faced even 25 years

ago. For example, in the 1990s, the legislature added mental health and substance abuse hearings to the magistrates' jurisdiction, but concluded that these hearings should be heard only by attorney magistrates.<sup>25</sup> Public expectations regarding the education and expertise of those with decision making authority over them has increased since 1973. These greater challenges and increased public expectations require that applicants have legal training and be licensed attorneys. The 1981 Evaluation of the Iowa Limited Jurisdiction System, performed by Resource Planning Corporation of Washington, D.C., recommended that all magistrates have a law degree.<sup>26</sup> The need for legal training is greater today than in 1981.

### **Recommendation 6**

**Amend the Iowa Code to provide that County Magistrate Appointing Commissions should consider the potential for conflicts of interest as a factor when selecting a magistrate from among two or more comparably qualified applicants.**

Judicial officers must recuse themselves from presiding over any case in which the judicial officer has a personal or financial interest. For part-time magistrates who have a law practice, this means they cannot preside over any case involving a person who is a client in his or her private law practice. Almost all attorney magistrates maintain an active civil law practice. Some also maintain a criminal law practice, though most, if not all, limit their criminal law practices to counties outside the county where they serve as a magistrate. Attorneys with the most broadly based law practices (e.g., civil and criminal law) have the greatest chance of encountering conflicts of interest as a judicial magistrate.

The Task Force concluded that, because of the limited pool of applicants for some magistrate positions, it is impractical to impose restrictions on the types of law practices attorneys can have and still qualify to be magistrates. This would simply create another barrier to expanding the pool of qualified attorney applicants for magistrate positions. On the other hand, the Task Force concluded that conflicts and the potential for conflicts are real problems. A County Magistrate Appointing Commission, when considering two or more comparably qualified candidates, should weigh and consider the potential for future conflicts of interest in making the decision among the candidates.

---

<sup>25</sup> See Iowa Code section 602.6405.

<sup>26</sup> See Appendix B.

## ***Increase Diversity Among Applicants for Magistrate Positions and Magistrate Appointing Commissions and Train Magistrates on Diversity-related Issues***

### **Recommendation 7**

The judicial branch should make a concerted effort to recruit African Americans, Hispanics, Asians, other ethnic minorities to apply for magistrate and other judicial officer positions and positions on judicial nominating commissions. Magistrates should also receive the same opportunity for diversity training as full-time judges. To enhance recruitment of racial and ethnic minorities, the Task Force specifically recommends:

(1) When magistrate or other judicial positions become available, the judicial branch, county bar associations, and the appropriate nominating or appointing commission should disseminate information about the vacancies through print, television and radio media, and community organizations that are directed toward minority communities in Iowa.

(2) The judicial branch should work with law schools in Iowa to develop internship programs to match law students with magistrate judges.

(3) The judicial branch should encourage the legislature to amend the Iowa Code pertaining to judicial nominating or appointing commissions to explicitly require them to seek qualified minority candidates for judicial positions, similar to the Minnesota Code. (See the Minnesota Code, Section 480B.01 (i)(e), .01(7) and .01(8).

In the past two decades, there has been significant progress in Iowa to increase the number of female magistrates. However, there are presently no magistrates from ethnic or racial minorities, and there have been very few since the magistrate system was established in 1973.

The judicial branch stands to benefit from a more diverse judiciary. Diversity among judicial officers can enhance the quality and range of views expressed in meetings and judicial education programs, while also enhancing the trust and confidence in the Iowa courts among citizens who are racial or ethnic minorities.

The Task Force recognizes that most counties in Iowa have few, or no, attorneys who are racial or ethnic minorities. However, even those counties with significant numbers of minority attorneys have few, if any, applicants for magistrate positions. Lack of information regarding the nature of a magistrate position, or about openings for magistrate positions can be barriers to

achieving diversity in the magistrate applicant pool. Directing information and announcements about available magistrate positions to media in areas with substantial minority populations could help increase the number of minority candidates for magistrate positions. The state and county bar associations could also be more proactive in encouraging minority attorneys to apply for magistrate positions.

Likewise, there are very few ethnic or racial minorities on county magistrate appointing commissions. The same effort should be made to ensure diversity on those commissions. The presence of ethnic and racial minorities on county magistrate appointment commissions should help in the recruitment of more minority applicants.

For many people in Iowa's increasingly diverse population, their initial or only contact with a judicial officer may be with a magistrate. Accordingly, it is essential that the same diversity training available to full-time judges be part of the education and training program for magistrates.

### ***Improve Magistrates' Quality of Life and Support***

#### **Recommendation 8**

**The Supreme Court should issue an administrative directive that no magistrate should be on-call more than 50% of the time during a calendar year and should have an equitable share of time off on weekends and holidays. Full-time judges in each district should assist in sharing the on-call duties. Chief judges should establish, and district court administration staff should manage, the annual on-call schedule.**

The present magistrate system is very loosely administered in most judicial districts. In some areas of the state, magistrates operate almost autonomously. A few magistrates have no on-call duties, while others have on-call duties 365 days a year, with sole responsibility for finding their on-call replacement when they are unavailable. Many magistrates have no coverage for daily responsibilities when ill or on vacation, and simply have to postpone those duties to be handled upon their return. Likewise, coverage for on-call duties often requires trading on-call duties with other magistrates, which results in double coverage for the magistrate when their replacement magistrate requires help with on-call coverage.

Magistrates will have greater enthusiasm for their careers and will not suffer from sleep deprivation and burn-out if the on-call duties are shared more equitably. It might also be easier

to attract qualified applicants in rural areas if they know they can have time off from on-call duty.

Presently, there are areas of the state that already meet the objective of this recommendation because some or all full-time judges assist with on-call duties, or there are multiple magistrates to equitably share on-call time. But in many rural counties, the magistrate is the only judicial officer and is required to handle all the on-call duties, except when ill or on vacation. To overcome decades of tradition on this issue, the Supreme Court should issue an administrative directive to establish a statewide policy consistent with this recommendation, requiring that all full-time judges assist in meeting this objective. The chief judges, with the assistance of the district court administration staff, should establish an annual schedule to implement the directive in their districts. Where there is substantial commitment to on-call time, it might be appropriate to provide judicial officers with compensatory time.

#### **Recommendation 9**

##### **Make optimal use of existing communication technologies and provide state assistance in securing appropriate equipment.**

Advances in communication technologies have opened new avenues for providing access to judicial services. Judicial officers no longer have to be in the same room as the litigants and attorneys. Courts in some counties (mostly urban) already conduct initial appearances in criminal cases with defendants appearing in a hearing room in the jail, while the judicial officer is in another location conducting the proceeding via closed circuit television. With advances in webcam and internet communication technologies which have become very affordable, magistrates throughout Iowa could conduct initial appearances, and possibly other hearings from remote locations. Implementing webcam technology would require additional funding, but it would save time and travel costs for the courts and other agencies. Where webcam technology is not available, allowing the initial appearances to be conducted through the use of telephone communications and faxed documents would also reduce time and travel by magistrates. It would also be helpful to allow the use of faxed documents, combined with telephone communication between a magistrate and law enforcement personnel, for reviewing and granting search warrants. All of these strategies would ease the travel burden on both magistrates and law enforcement agencies, and thereby save money for the courts and county agencies – while continuing to adequately protect the rights of those under investigation.

Implementing these recommendations will require amendment of the Iowa Code and/or Iowa Court Rules.<sup>27</sup>

#### **Recommendation 10**

**Amend the Iowa Code to authorize the Supreme Court to issue rules that would allow physicians to implement a temporary hold on a patient needing a mental health or substance abuse committal between the hours of 10:00 p.m. and 7:00 a.m.**

A phone call from a physician with an emergency mental health or substance abuse committal patient is one of the most-frequent late night interruptions for magistrates or other judicial officers who are on-call. Late night requests for a committal order are almost always granted by magistrates if the committal is recommended by a physician. Consequently, requiring a patient to wait for a judicial order until 7:00 a.m. the next morning is not an undue burden. By making this code change subject to Supreme Court rule, there would be judicial oversight and procedures in place, including the option of not exercising this authority at all.

### ***Improve the Mental Health and Substance Abuse Commitment Process***

#### **Recommendation 11**

**Establish a joint task force including representatives from, but not limited to, the Judicial Branch, the Department of Human Services, the Attorney General's office, the Department of Corrections, and Central Point Coordinators to study and recommend improvements to mental health and substance abuse committal policies.**

Of all the matters studied by the Task Force, none appear more complex and in need of immediate change than Iowa's mental health and substances abuse committal policies and practices. Most of what the Task Force heard and discussed on this topic cannot be addressed solely by the Judicial Branch. The issues involve multiple state and county departments as well as the courts. Placement options, adequate staff, transportation options for children with parents, sheriff office travel costs, and stand-by obligations are just a few of the issues and concerns. It is important to note that many possible changes could be revenue neutral or even result in savings for the state and counties.

---

<sup>27</sup> E.g., Iowa Rule of Criminal Procedure 2.27 – re: presence of defendant in court; and Iowa Code Sections 804.21 – re: initial appearances, and 808.3 – re: search warrants.

The Task Force believes that addressing these issues as soon as possible is critical if Iowa is to provide adequate services to its citizens on an efficient and cost effective basis. The Task Force calls on state leaders to create a joint commission study group to study and address these problems and issues.

### ***Expand Use of Small Claims Mediation Programs***

#### **Recommendation 12**

**Establish small claims mediation programs and training standards for small claims mediators throughout the state. Whenever possible, small claims trials should take place the same day if mediation is unsuccessful.**

Small claims mediation programs have been very successful at reducing the number of these cases that go to trial in the counties where it is used. In Johnson County, it is estimated that small claims cases would be heard six weeks later if not for the success of the mediation program. Research also suggests that small claims litigants are more likely to be satisfied with the outcome of a mediated agreement than with the outcome of a trial. The Task Force believes that a small claims mediation program should be established in every county, but recognizes this would have to be gradually implemented, and that the process will require additional funding and supervision. Requirements for small claims mediator training and statewide certification would be needed, and would provide some uniformity as programs spread across the state.

In some counties, small claims mediation is conducted on the trial date, and a trial is held only if mediation is unsuccessful. In other counties mediation is scheduled to occur first, and if it is unsuccessful, the case is scheduled for trial on another date. Having to attend proceedings on two separate days can be unduly burdensome and costly to the parties. To reduce this burden and additional cost, whenever possible the courts should conduct both mediation and trial on the same day, unless the parties choose to schedule the trial for a different day.

## ***Periodically Review the Magistrate System***

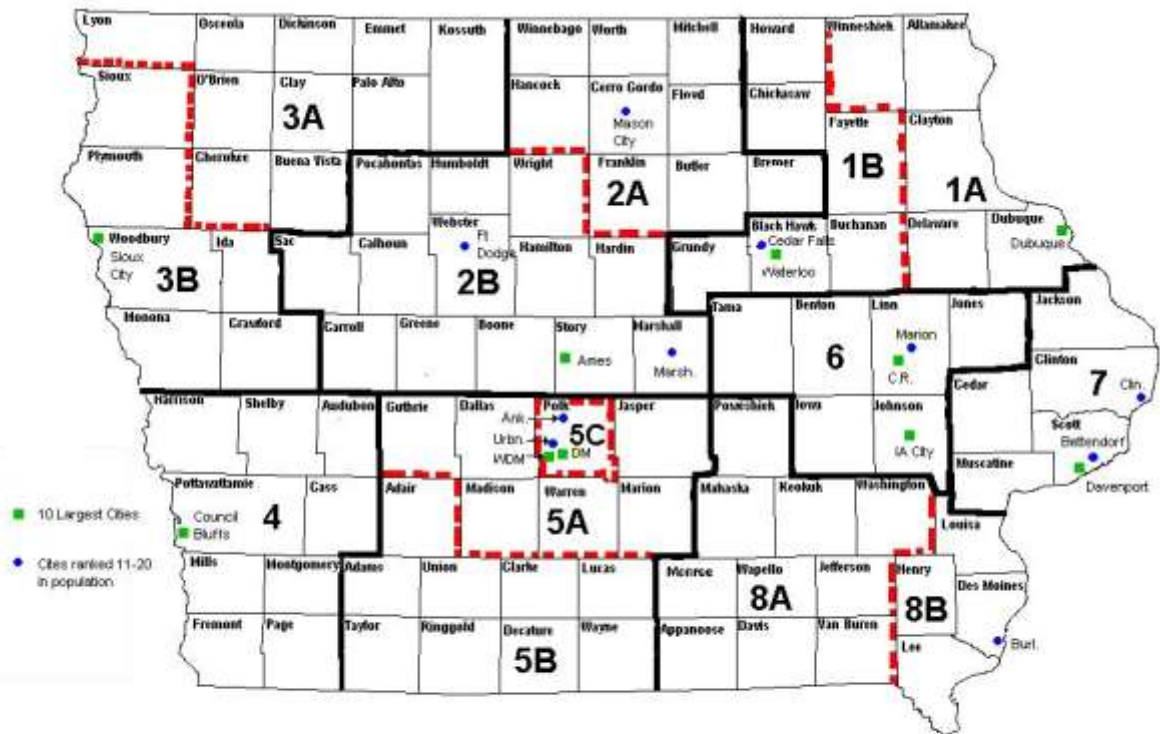
### **Recommendation 13**

**The Supreme Court should establish an advisory committee on limited jurisdiction courts, or at least periodically have an ad hoc task force review and consider limited jurisdiction changes.**

It is very important that there be follow up on the findings and recommendations of this Task Force, as well as monitoring the effectiveness of the limited jurisdiction system in years to come. Whatever the eventual conclusions are regarding this report, the subject area deserves continual review and updating in the years ahead.

## Appendix A

### Iowa's 8 Judicial Districts & 14 Judicial Election Districts



## **Appendix B**

### **Summary of Recommendations in the “Evaluation of Iowa’s Limited Jurisdiction Judicial System” (1981) By Resource Planning Corp., Washington, D.C.**

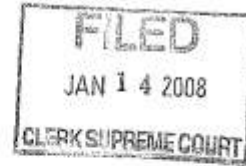
[Complete report is available upon request from the State Court Administrator’s Office in Des Moines, IA]

1. Every magistrate should have a law degree; or give preference in appointments to applicants who are lawyers. (To address the concern that not enough attorneys apply to be magistrates, the Iowa courts should allow for either part-time or full-time positions and allow for multi-county jurisdiction.)
2. No change in pay for magistrates (\$10,000 per year).
3. Continue to pay a fixed salary (above), rather than an hourly rate.
4. Educate lay members of the magistrate appointing commissions regarding the responsibilities of magistrates, and the appointment process.
5. Improve recruitment of attorneys to serve as magistrates.
6. No need to change administration or supervision of magistrates.
7. Chief judges should issue a memorandum setting out the line of administrative authority for supervision of magistrates in their district.
8. Chief judges should appoint an intermediary for magistrates to contact regarding administrative issues.
9. Chief judges should conduct regular regional meetings to allow magistrates to discuss and resolve issues and concerns.
10. Chief judges, not the Supreme Court, should establish schedules for when and how long magistrates should hold court each week in their respective counties.
11. The state court system should establish a magistrate orientation program that can be offered at any time, even one-on-one, as needed.
12. Training conferences for magistrates should be reorganized to better meet the needs of lawyer and nonlawyer magistrates.
13. The next training conference for magistrates should include a special focus on landlord tenant issues.
14. Increase magistrates’ small claims jurisdiction from \$1000 to \$3000.
15. Further expand the civil and criminal jurisdiction of magistrates only after determining whether to employ full-time magistrates or to require magistrates to have a law degree.
16. *Phase-in a system of full-time magistrates by:*
  - a. Exchanging 3 part-time magistrates for 1 full-time magistrate (or a district associate judge) to cover 2 counties. If this is successful, move toward a system that:
  - b. Employs only full-time lawyer magistrates or district associate judges who cover two or more counties.
17. District 3 should evaluate the scheduling, plea bargaining, case management, and continuance practices in 3B.
18. Do not mandate statewide adoption of specific case management techniques.
19. Clerks of court should perform accounting functions for limited jurisdiction cases.

## Appendix C

### Iowa Supreme Court Order Creating the Limited Jurisdiction Task Force

#### IN THE SUPREME COURT OF IOWA



**IN THE MATTER OF APPOINTMENTS )  
TO THE SUPREME COURT ) ORDER  
LIMITED JURISDICTION TASK FORCE )**

Thirty-four years have passed since the adoption of the Unified Trial Court Act that streamlined Iowa's fragmented trial court system. This Act, among other things, abolished an assortment of local courts, including police courts, municipal courts, justice of the peace courts, and superior courts and replaced them with part-time magistrates, full-time magistrates (now known as district associate judges), and district associate judges. While the legislature has changed some features of the magistrate system over the years, it has maintained the basic framework and function of Iowa's magistrate court as it was in 1973.

Iowa has changed dramatically since the inception of the present part-time magistrate system. Population migration, increasing numbers of drug crimes and incidents of domestic violence, more appearances by self-represented litigants, rising demands for mental health services, shifts in our economy, and a more diverse population are some of the changes that have affected our communities and placed different and greater demands on our courts.

The Iowa Supreme Court and Iowa Judicial Council are aware of a number of concerns regarding the part-time judicial magistrate system, including workload disparities caused by caseload disparities among counties, a shortage of resident lawyers to serve as magistrates in certain rural parts of the state and compensation equity. Many of these issues were identified and discussed by the Legislative Interim Study Committee on Judicial Districts and Judicial Resources (2003-2005). However, the legislature has not implemented any of the related recommendations of this study committee.

For the reasons stated above, the Iowa Supreme Court and the Iowa Judicial Council believe it is time to examine whether Iowa's thirty-four-year-old magistrate framework is meeting the needs of local communities for equal, accessible, and high-caliber justice and, if not, identify what improvements or systemic reforms are required to meet these needs. Therefore, the court establishes a task force to:

- Examine the needs of local communities for readily available judicial services to address:

- Cases and court procedures that require swift judicial attention such as criminal procedures, civil commitment proceedings, and requests for protective or no-contact orders, and
- High volume, routine matters such as ordinance and traffic violations, small claims cases and forcible entry and detainer actions.
- Assess the capacity of the judicial branch to effectively, efficiently and equitably meet those needs within the present judicial magistrate framework,
- Examine whether the present composition of limited jurisdiction courts within the unified trial court system effectively addresses the changing needs of local communities for access to readily available judicial services.
- Recommend cost-effective, results-oriented strategies for enhancing and ensuring the delivery of high quality community-based judicial services.

When assessing the capacity of the present judicial magistrate framework to effectively, efficiently, and equitably meet the needs of local communities for judicial services, the task force should consider, among other issues, the jurisdiction, allocation, distribution of workload, qualifications, education, appointment procedures, and compensation of magistrates. The task force should also examine the extent to which the practice of law by magistrates who are also lawyers affects the effective and efficient administration of justice.

When considering recommendations for enhancements, the task force should be open to options outside the parameters of the present judicial magistrate framework. The task force may want to consider ideas such as:

- Adding more district associate judges or creating full-time magistrate positions to serve high volume communities or clusters of communities.
- Providing more flexibility with respect to the geographical boundaries within which magistrates must reside and are assigned.
- Requiring all judicial magistrates to be licensed to practice law.
- Innovations for promptly addressing cases and for improving public service such as evening or weekend hours, and changes in jurisdiction.

- Redesigning nomination and appointment procedures in a manner that best ensures judicial accountability and fosters public confidence in the courts.
- Providing pay differentials that correspond with varying case loads.

The task force should consult with experts and advocates in subject matter areas encompassed within or affected by the study such as mental health advocates, service providers and professionals, domestic abuse advocates, and local and state corrections officials.

The court hereby appoints the following persons to the task force:

Donald Redfern, Cedar Falls, chair  
 James R. Tyler, Atlantic  
 Corbett (Corey) Luedeman, Cedar Rapids  
 Susan Flander, Mason City  
 Linny Emrich, Clerk of Court, Manchester  
 Craig Jorgensen, Clerk of Court, Sioux City  
 Captain Dan Chapman, Dubuque  
 Lisa Raabe, Des Moines  
 David M. Erickson, Des Moines  
 Elisabeth S. Reynoldson, Osceola  
 Jerry Van Scoy, Clinton  
 Magistrate Dianne Wallwey, Spencer  
 Magistrate Richard N. Dunn, Eldora  
 Magistrate Suellen Overton, Council Bluffs  
 Magistrate Karen D. Egerton, Iowa City  
 Vicky Long Hill, Des Moines  
 Myron Gookin, Fairfield  
 District Judge Mary E. Howe, Davenport  
 District Judge Nancy A. Baumgartner, Cedar Rapids  
 District Associate Judge Lucy J. Gamon, Sigourney  
 District Associate Judge John Nelson, Sioux City  
 District Associate Judge Virginia Cobb, Adel  
 Chief of Police Jeff Harnish, Toledo  
 Timothy W. Dille, Jefferson County Attorney, Fairfield  
 Timothy R. Kenyon, Union County Attorney, Creston  
 James Strohman, Story County Board of Supervisors, Ames  
 Linda Langston, Linn County Board of Supervisors, Cedar Rapids  
 Senator Larry McKibben, Marshalltown  
 Representative Richard T. Anderson, Clarinda  
 Senator Keith A. Kreiman, Bloomfield  
 Representative Rick Olson, Des Moines

Members shall be reimbursed for necessary and reasonable travel expenses according to Iowa Court Rules 22.16 through 22.2.

Dated this 14th day of January, 2008.

THE SUPREME COURT OF IOWA

By Marsha Ternus  
Marsha K. Ternus, Chief Justice

Copies to:

Members of the Supreme Court  
Chief Judges  
State Court Administrator  
Members of the Task Force  
Director of Finance and Personnel  
District Court Administrators

## Appendix D

### Number of Lawyer and Lay Magistrates in Each Judicial District


Judicial District	Lawyer Magistrates	Lay Magistrates	Total
1	17	3	20
2	32	1	33
3	14	1	15
4	9	7	16
5	22	2	24
6	14	1	15
7	15	0	15
8	13	1	14
<b>Total</b>	<b>136</b>	<b>16</b>	<b>152*</b>
<b>% of Total</b>	<b>89.5%</b>	<b>10.5%</b>	

\*There are a total of 206 magistrate positions: 54 have been exchanged for 18 full-time District Associate Judges (see Appendix C), leaving 152 actual magistrates.

## Appendix E

### Findings from a Survey of Judicial Magistrates in Iowa (June 2008) Conducted by the Limited Jurisdiction Task Force

**Table 1: Magistrate Work Time and Support Issues**

<b>Issues:</b>	 <b>Mean* Rating</b>	Median* Rating	Min. # Rating	Max. # Rating	# of Mags. Who Responded
1 - Avg <b>hours</b> per <b>WEEK</b> I am scheduled to be at courthouse for magistrate duties	<b>10.1</b>	9	3	32	116
2 - Avg total <b>hours</b> per <b>WEEK</b> I spend on magistrate work (excluding travel & waiting time while on-call)	<b>16.1</b>	16	4	<b>38</b>	114
3 - Avg # <b>DAYS</b> per <b>MONTH</b> I am on-call	<b>17.3</b>	15	0	31	117
4 - Avg <b>HOURS</b> per <b>MONTH</b> on magistrate <u>work</u> while <u>on-call</u>	<b>16.3</b>	10	0	<b>62</b>	114
A - % of on-call work (above) on search warrants	<b>20%</b>	10%	0%	100%	115
B - % of on-call work (above) on mental health/substance abuse commitments	<b>36%</b>	30%	0%	100%	115
C - % of on-call work (above) on other issues	<b>37%</b>	34%	0%	100%	115
5 - # of other judicial officers who share on-call with me	<b>2.1</b>	1	0	26	117
8 - # of other magistrates who reside in my county	<b>1.5</b>	1	0	6	117
9 - # of full-time judges who reside in my county or contiguous county	<b>5.3</b>	2	0	30	117
10 - # of full-time judges who assist with on-call in my county	<b>1.1</b>	0	0	29	117
11 - I use my own secretary for magistrate work (0 = No; 1 = Yes)	NA	<b>56% = Yes / 46% = No</b>			117

\*Mean = the sum of all responses divided by the number of magistrates who responded to the question.  
Median = the midpoint: half of responses were above – and half were below – the median response.

***Appendix E is continued on the next page***

Appendix E – Continued

**Table 2: Magistrate Opinions**

<b>Ratings (on a 1 to 5 scale): 1 = Strongly <u>DISAGREE</u> / 5 = Strongly <u>AGREE</u></b>	<b>↓ Mean* Rating</b>	<b>Median* Rating</b>	<b>Min. # Rating</b>	<b>Max. # Rating</b>	<b># of Mags. Who Responded</b>
27 - We handle mental health commitment issues in a timely manner	<b>4.6</b>	5	1	5	115
13 - I enjoy my magistrate work	<b>4.5</b>	5	2	5	117
25 - We adjudicate simple misdemeanors in a timely manner in my county	<b>4.5</b>	5	2	5	117
26 - We adjudicate small claims in a timely manner in my county	<b>4.5</b>	5	2	5	116
14 - All magistrates should be lawyers	<b>4.3</b>	5	1	5	117
15 - Every county should have at least one magistrate	<b>4.2</b>	5	1	5	116
22 - I am satisfied with the assistance I receive from clerks in my county	<b>4.2</b>	5	1	5	117
23 – I am satisfied with assistance I receive from district ct administration	<b>3.8</b>	4	1	5	115
32 - There is effective communication among magistrates in our judicial district	<b>3.5</b>	4	1	5	115
34 - There is effective communication between district court admin. and magistrates in our judicial district	<b>3.5</b>	4	1	5	115
18 - IA should allow full-time magistrates where justified by workload	<b>3.4</b>	4	1	5	115
33 - There is effective communication between judges & magistrates in our judicial district	<b>3.4</b>	4	1	5	117
21 - I am satisfied with the magistrate education program offered by the judicial branch	<b>3.4</b>	4	1	5	116
16 - All magistrates should receive the same salary & benefits	<b>3.3</b>	3	1	5	117
20 - I am satisfied with the way on-call duties are assigned in my county	<b>3.3</b>	3	1	5	113
24 – I am satisfied with state court administration policies regarding magistrates	<b>3.2</b>	3	1	5	114
17 - I am satisfied with the way my caseload is covered while I'm on vacation	<b>3.2</b>	4	1	5	115
19 – Iowa should allow 1 magistrate to serve multiple counties, assuming fair compensation for the workload	<b>3.0</b>	3	1	5	116
28 - I have sufficient time at the courthouse to write high quality rulings	<b>2.8</b>	3	1	5	117
12 - I am satisfied with my salary & benefits	<b>2.7</b>	3	1	5	115

\*Mean = the sum of all responses divided by the number of magistrates who responded to the question.

Median = the midpoint: half of responses were above – and half were below – the median response.

## Appendix F

### Magistrates' Salary, Benefits, and Access to Tech Training and Support

#### **Magistrates' Salary and Benefits** (December 2008)

Annual payroll costs of a typical Judicial Magistrate in the

Wage	\$	37,740.00	
FICA	\$	2,339.88	(at 6.2%)
Medicare	\$	547.23	(at 1.45%)
Retirement	\$	<b>2,396.49</b>	(at 6.35% - IA Public Employees Retirement System)
Health	\$	7,648.68	(assumes family plan)
Dental	\$	210.24	(assumes family plan)
<b>Total</b>	<b>\$</b>	<b>50,882.52</b>	
Benefits: % of base wage		35%	
Benefits: % of total		26%	

*Life Insurance* is not available to part-time employees

#### **Technology and Tech Support for Magistrates**

*Additional technologies available to magistrates:* Magistrates can request a virtual private network (VPN) connection to the court system's network. With VPN connection, magistrates can access their judicial branch email account from these laptops. Those with a VPN connection on their judicial branch laptop (which also includes Lotus Notes client software) also have access to those Lotus Notes databases that they might normally use in their office at the courthouse. Some magistrates have requested a VPN connection for their law office or home computers. This provides them access to their judicial email account via Webmail, but they do not have access to Lotus Notes databases because most of these databases are not currently web-enabled.

*Computer support and training:* The judicial branch's Information Technology (IT) division provides technical support and training in several ways:

- A Judicial Application Support person to support magistrate needs and requests.
- One-on-one training for individuals or a group at their request (e.g., Microsoft office tools, Lotus Notes email & databases, VPN, etc.).
- Phone-based technical assistance through the IT's Helpdesk to assist in getting various tools and resources set up for the Magistrates.
- Onsite visits to help magistrates overcome computer or software problems, if necessary.
- Presentations at the annual magistrate conference to keep magistrates informed of the technology and services available to them.
- Training provided for new judges and magistrates.

## Appendix G

### Total Magistrate Positions and Number Exchanged for District Associate Judge Positions By Judicial Election District

	1A	1B	2A	2B	3A	3B	4	5A	5B	5C	6	7	8A	8B	State
<b>Total # of magistrate positions allocated</b>	9	14	13	25	17	13	19	12	10	13	23	15	17	9	206
# of magistrate positions exchanged for DAJs (3 for 1)*	0	3	0	6	9	6	3	6	0	6	3	0	6	6	54
# of DAJs obtained*	0	1	0	2	3	2	1	2	0	2	1	0	2	2	18
<b>Net # of actual magistrates appointed (Row 1 – Row 2)</b>	9	11	13	19	8	7	16	6	10	7	17	15	11	3	152

\*DAJ: District Associate Judge (full-time).

## Appendix H

### Agendas for the Six Meetings of the Limited Jurisdiction Task Force

#### Limited Jurisdiction Task Force, 2008

##### First Meeting

February 13, 2008

*Iowa Workforce Development Office  
430 E. Grand Ave., 3<sup>rd</sup> Floor Board Room  
Des Moines*

##### Agenda

- |          |  |
|----------|--|
| 9:30 AM  | <b>Welcome</b> (Chief Justice Marsha Ternus)   |
| 9:40     | <b>Overview &amp; history of Magistrate jurisdiction and allocation</b><br>(David Boyd, State Court Administrator)                             |
| 10:00    | <b>Introduction &amp; brief statement of concerns by Task Force members</b>  |
| 10:50    | <b>Review of Task Force goals, objectives &amp; timeline</b> (Don Redfern, Chair);<br><i>See Order signed by Chief Justice Ternus</i>          |
| 11:00    | <b>Review &amp; discuss current Iowa Code sections on Magistrate selection, jurisdiction, and allocation</b> (Don Redfern); <i>see handout</i> |
| Noon     | Break for lunch – in the conference room   |
| 12:45 PM | <b>Review current Magistrate allocations &amp; weighted workload formula</b><br>(John Goerdt); <i>handouts to be provided at the meeting</i>   |
| 1:45     | <b>Open discussion of issues</b> (Don Redfern)   |
| 3:00     | Adjourn  |

##### Materials Received Prior to Meeting

1. Agenda
2. Iowa Code sections on judicial magistrates
3. Map: 8 judicial districts & 14 election districts
4. Map: Iowa counties, their population, and allocation of magistrates
5. Final Report of the Legislative Study Committee on Judicial Districts and Judicial Resources (Feb. 2006)
6. Final Report of the Legislative Study Committee on Judicial Districts and Judicial Resources (Jan. 2004)
7. List of Task Force members and their contact information

*Appendix H (continued)*

**Limited Jurisdiction Task Force, 2008**

**Second Meeting**

**April 2, 2008**

*Iowa Workforce Development Office  
430 E. Grand Ave., 3<sup>rd</sup> Floor Board Room  
Des Moines*

**Agenda**

9:30 AM      **Welcome** – Don Redfern, Task Force Chair

**Task Force Magistrates’ Program**

9:35            Overview – Magistrate Rick Dunn

9:40            History of Magistrate Policies – Magistrate Jim Mefferd, Lucas Co.

10:10          Urban Magistrate Experience – Magistrate Jeff Lipman, Polk Co.

10:40          Lay Magistrate Experience – Magistrate Katherine Langlas, Black Hawk Co.

11:10          Only Magistrate in a High Workload Rural County – Magistrate Andrea Miller,  
Franklin Co.

11:40          Panel: Magistrates Wallwey, Egerton, Overton and Dunn (Task Force members)

12:15          **Lunch break**

1:00 PM       **Iowa Legal Aid Perspective**, Corey Luedeman

1:25           **Landlord Association Perspective**, Lisa Raabe

1:50           **Task Force Discussion:**

Identification of key issues and additional evidence

2:30           **Suggestions for next meeting**

2:45           **End of meeting**

*Appendix H (continued)*

**Limited Jurisdiction Task Force, 2008**

**Third Meeting**

**May 22, 2008**

*Iowa Workforce Development Office  
430 E. Grand Ave., 3<sup>rd</sup> Floor Board Room  
Des Moines*

**Agenda**

- 9:30 AM      **Call To Order** – Review of notes from April 2 meeting – Don Redfern
- 9:35           **Chief Judges’ Perspectives: Presentations & Discussion**
- Chief Judge David Remley, 6<sup>th</sup> Judicial District  
                 Chief Judge Kurt Wilke, 2<sup>nd</sup> Judicial District
- 10:50        **Perspectives on Mental Health/Substance Abuse Commitment Cases**
- Linda Hinton, Iowa State Association of Counties  
                 Deb Schildroth, Director/CPC Administration, Story County Community Services  
                 Diane Larsen, Judicial Hospitalization Referee, Black Hawk County, Iowa  
                 A representative from Iowa Hospital Association
- 12:05 PM    **Lunch Break**
- 12:45        **Mediation Programs in Limited Jurisdiction Courts**
- Mediators: Annie Tucker, Lois Crane, Barb Musgrove
- 1:45          **County Attorneys’ Perspectives**
- Timothy Kenyon and Timothy Dille
- 2:10          **Task Force Discussion**
- Additional group and individual presentations and other information desired  
                 -Identification of key issues for Task Force  
                 -Proposed agenda for July meeting (tentatively scheduled for July 9)
- 2:45          **Adjournment**

*Appendix H (continued)*

**Limited Jurisdiction Task Force, 2008**

**Fourth Meeting**

**July 9, 2008**

*Olga Babcock Miller Building*

*North of the State Capitol on the North side of Grand Avenue*

*Des Moines*

**Agenda**

9:30 AM	<b>Call to Order</b> – Review of notes from May 22 meeting
9:35	<b>Update From Task Force Magistrates</b>
9:45	<b>Public Defender Perspective</b> Susan Flander
10:05	<b>Clerk of Court Perspective</b> Linny Emrich and Craig Jorgensen
10:25	<b>Navigating the Legislative Process</b> Senators Kreiman and McKibben and Representatives Olson and Anderson
10:45	<b>Task Force Judges’ Perspective</b> Judges Baumgartner, Gamon and Nelson
11:05	<b>Task Force discussion on Task Force issues and recommendations</b>
12:00 PM	<b>Lunch</b>
12:30	<b>Increasing minority applicants for magistrate positions</b> Judges Nickerson and McGhee
1:00	<b>Presentation on new technologies</b> Ken Bosier, Deputy Director of Information Technology Services, Iowa Judicial Branch
1:50	<b>Continuation of Task Force discussion and consideration of subcommittees for reports to next meeting</b>
2:45	<b>Adjournment</b>

*Appendix H (continued)*

**Limited Jurisdiction Task Force, 2008**

**Fifth Meeting**

**September 3, 2008**

*Iowa Workforce Development Office  
430 E. Grand Ave., 3<sup>rd</sup> Floor Board Room  
Des Moines*

**Agenda**

- 9:30 AM      **Call to Order** – Review of notes from July 9 meeting
- 9:35          **Judicial Formula Assessment Committee Update**  
John Goerd
- 9:50          **Presentation on Results of the Magistrate Survey**  
Magistrates Dunn, Egerton, Overton and Wallwey
- 10:20        **Presentations by Task Force Subcommittees**
1. Magistrates support and quality of life
  2. Access to magistrate
  3. Mental health commitments
  4. Qualifications for magistrates and the process for appointment and retention
- 12:15 PM    **Lunch Break**
- 12:45        **Continuation of Magistrate Subcommittee Presentations**
5. Enhancement of number of minority applicants for magistrate positions
  6. Jurisdiction of magistrates and small claims mediation
  7. Magistrate employment status
- 2:30          **Task Force Discussion of Next Steps**
- 2:50          **Adjournment**

*Appendix H (continued)*

**Limited Jurisdiction Task Force, 2008**

**Sixth Meeting / Conference Call**

**October 14, 2008**

For those who will attend in-person, the meeting will be held at:

*Judicial Branch Building  
1111 E. Court Ave., Des Moines  
Room 165*

**Agenda**

9:00 a.m.	<b>Overview of meeting</b>
9:05	<b>Discuss suggested/draft recommendations</b>
10: 30	<b>Break (5 minutes)</b>
10:35	<b>Continue discussion</b>
11:30	<b>Next steps for drafting the Task Force report</b>